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[Docket No. A95-7; Order No. 1050]

Toronto, Iowa 52343-0066; (Deb Bartels, et al., Petitioners); Notice and Order Accepting Appeal and Establishing Procedural Schedule Under 39 U.S.C. § 404(b)(5)

Issued: March 29, 1995.

Docket Number: A95-7

Name of Affected Post Office: Toronto, Iowa 52343-0066

Name(s) of Petitioner(s): Deb Bartels, et al.

Type of Determination: Closing

Date of Filing of Appeal Papers: March 24, 1995

Categories of Issues Apparently Raised:

1. Effect on postal services [39 U.S.C. § 404(b)(2)(C)].
2. Effect on the community [39 U.S.C. § 404(b)(2)(A)].

After the Postal Service files the administrative record and the Commission reviews it, the Commission may find that there are more legal issues than those set forth above. Or, the Commission may find that the Postal Service's determination disposes of one or more of those issues.

The Postal Reorganization Act requires that the Commission issue its decision within 120 days from the date this appeal was filed (39 U.S.C. § 404(b)(5)). In the interest of expedition, in light of the 120-day decision schedule, the Commission may request the Postal Service to submit memoranda of law on any appropriate issue. If requested, such memoranda will be due 20 days from the issuance of the request and the Postal Service shall serve a copy of its memoranda on the petitioners. The Postal Service may incorporate by reference in its briefs or motions, any arguments presented in memoranda it previously filed in this docket. If necessary, the Commission also may ask petitioners or the Postal Service for more information.

The Commission Orders

(a) The Postal Service shall file the record in this appeal by April 10, 1995.

(b) The Secretary of the Postal Rate Commission shall publish this Notice and Order and Procedural Schedule in the **Federal Register**.

By the Commission.

Margaret P. Crenshaw,
Secretary.

March 24, 1995—Filing of Appeal letter
March 29, 1995—Commission Notice and Order of Filing of Appeal

April 18, 1995—Last day of filing of petitions to intervene [see 39 C.F.R. § 3001.111(b)]
April 28, 1995—Petitioners' Participant Statements or Initial Brief [see 39 C.F.R. § 3001.115(a) and (b)]
May 18, 1995—Postal Service's Answering Brief [see 39 C.F.R. § 3001.115(c)]
June 2, 1995—Petitioners' Reply Brief should Petitioners choose to file one [see 39 C.F.R. § 3001.115(d)]
June 9, 1995—Deadline for motions by any party requesting oral argument. The Commission will schedule oral argument only when it is a necessary addition to the written filings [see 39 C.F.R. § 3001.116]
July 22, 1995—Expiration of the Commission's 120-day decisional schedule [see 39 U.S.C. § 404(b)(5)]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-35537; File No. SR-Amex-95-02]

Self-Regulatory Organizations; American Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change Relating to Minimum Fractional Changes

March 27, 1995.

On January 31, 1995, the American Stock Exchange, Inc. ("Amex" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to increase from \$5 to \$10 the price level below which equity securities are traded in sixteenths.

The proposed rule change was published for comment in Securities Exchange Act Release No. 35338 (February 7, 1995), 60 FR 8432 (February 14, 1995). No comments were received on the proposal.

The rule change amends Amex Rule 127 to allow the minimum fractional changes in sixteenths (\$.0625) for all securities priced between \$.25 and \$10. Amex Rule 127 will continue to provide that the minimum fractional change for dealings in securities priced below \$.25 will be in thirtyseconds (\$.03125), and for securities priced above \$10 the minimum fractional change will continue to be in eighths (\$.125).³

¹ 15 U.S.C. 78s(b)(1) (1988).

² 17 CFR 240.19b-4 (1994).

³ In 1992, the Commission approved amendments to Amex Rule 127 to provide that securities selling between \$.25 and \$5 could be traded in sixteenths. See Securities Exchange Act Release No. 31118 (August 28, 1992), 57 FR 40484 (September 3, 1992).

At the time of publication of the Commission release noticing this proposal, the Intermarket Trading System ("ITS") was not equipped to accommodate trading in sixteenths for stocks priced above \$5. However, at the February 1995 meeting of the ITS Operating Committee, the ITS participants approved enhancements to ITS to permit trading in sixteenths for Tape B securities⁴ priced under \$10. The Amex represents that these system modifications have been made and that the system now is able to accommodate trading all Amex securities priced below \$10 in sixteenths.⁵

The Commission finds that the proposed rule change to increase from \$5 to \$10 the price level below which equity securities are traded in sixteenths is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of Sections 6(b) and 11A.⁶ The Commission believes the proposal is consistent with the Section 6(b)(5) requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, and, in general, to protect investors and the public interest. Additionally, the Commission believes that the proposal is consistent with Section 11A, which requires the Commission to facilitate the establishment of a national market system. Pursuant to Section 11A, a national market system should assure, among other things, fair competition between the exchanges, economically efficient execution of securities transactions and the practicability of brokers executing investors' orders in the best market.

The Commission believes that market quality should be enhanced by applying a minimum fractional change of $\frac{1}{16}$, rather than $\frac{1}{8}$, to securities selling below \$10. The Commission believes that decreasing such trading variations should help to produce more accurate pricing of such securities and can result in tighter quotations. In addition, if the quoted markets are improved by the

⁴ The Consolidated Tape, operated by the Consolidated Tape Association ("CTA"), compiles last sale reports in certain listed securities from all exchanges and market makers trading such securities and disseminates these reports to vendors on a consolidated basis. Amex-listed stocks and qualifying regional-listed stocks are reported on CTA Tape B.

⁵ The Amex will verify that the other ITS participants have completed any necessary system modifications before trading securities priced between \$5 and \$10 in sixteenths. See letter from Arne G. Michelson, Amex, to ITS Operating Committee, dated March 7, 1995.

⁶ 15 U.S.C. 78f(b) and 78k-1 (1988).

reduced minimum tick fluctuations, the change could result in added benefits to the market such as increased liquidity in stocks priced below \$10.⁷ The Commission believes that decreasing such trading variations should help to produce more accurate pricing of such securities and can result in tighter quotations.

Furthermore, the Amex represents that approximately 60% of all equity securities presently traded on the Amex sell for under \$10 per share.⁸ The Commission believes that the tighter quotation resulting from trading these securities in sixteenths should provide customers with the most competitive market and the best possible execution of their transactions in securities priced below \$10.

In addition, the Commission believes that the proposal should lead to increased competition between the exchanges pursuant to Section 11A of the Act. As noted above, ITS participants will have the capability to trade in sixteenths in Amex-listed securities. By ensuring that all ITS participants can quote in sixteenths, customers should be able to receive a better, more competitive price in securities priced below \$10.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,⁹ that the proposed rule change (SR-Amex-95-02) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁰

Margaret H. McFarland,

Deputy Secretary.

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⁷ The rule change is consistent with the recommendation of the Division of Market Regulation (the "Division") in its Market 2000 Study, in which the Division noted that the 1/8 minimum variation can cause artificially wide spreads and hinder quote competition by preventing offers to buy or sell at prices inside the prevailing quote. See Division of Market Regulation, SEC, *Market 2000: An Examination of Current Equity Market Developments* (January 1994), at 18.

⁸ The Amex estimates that the rule change will increase the number of securities traded in sixteenths from 362 securities (approximately 37% of Amex-listed securities) to 589 securities (approximately 60% of Amex-listed securities). These estimates were made by the Exchange as of February 3, 1995.

⁹ 15 U.S.C. 78s(b)(2) (1988).

¹⁰ 17 CFR 200.30-3(a)(12) (1994).

[Release No. 34-35538; File No. SR-CBOE-95-18]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to Fractional Changes for Bids and Offers in Stocks Priced Below \$10

March 27, 1995.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on March 6, 1995, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE proposes to amend its rule respecting the permissible fractional changes that may be made for bids and offers in stocks and related instruments that are priced below \$10 per share.

The Exchange requests the Commission to find good cause, pursuant to section 19(b) (2) of the Act, for approving the proposed rule change prior to the thirtieth day after publication in the **Federal Register**.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The self-regulatory organization has prepared summaries, set forth in Section A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The proposed rule change increases from \$1 to \$10 the price level below

which stocks or other designated instruments may be traded in sixteenths, *i.e.*, 1/16 of \$1 (\$.0625). CBOE Rule 30.33, Fractional Changes for Bids and Offers, currently requires bids and offers in stocks (and other instruments that may be traded on the Exchange pursuant to Chapter 30 of the CBOE Rules) with a price of \$1 or less to be made at a variation of at least 1/8 of (\$.125).³ Currently, the rule only permits variations of as little as 1/16 of \$1 for bids and offers in stocks and other instruments that have a price below \$1 but above \$.25 per share. Bids and offers in stocks with prices of less than \$.25 per share may be varied by as little as 1/32 of \$1 per share (\$.03125).

The Exchange believes that by increasing the number of stocks and other instruments eligible to be traded in sixteenths, the Exchange will be better able to compete for listings in instruments, such as warrants. In fact, the Exchange's proposal is identical to a proposal of the American Stock Exchange ("Amex"), which recently was approved by the Commission.⁴ The Exchange believes that trading in sixteenths will improve the market for securities trading under \$10 by promoting greater liquidity and providing for superior executions of retail and professional orders. Also, the proposal is responsible to the recommendations of the Division of Market Regulation in its Market 2000 Study that the exchanges convert to a minimum variation of one-sixteenth as soon as possible.⁵

In 1992, participants of the Intermarket Trading System (ITS)⁶ met to discuss the need to make changes to the ITS to accommodate increased trading of securities priced sixteenths. The Exchange anticipates that further

³ The Commission notes that the CBOE currently does not trade any securities pursuant to Chapter 30 of the CBOE rules except for SuperShares, which are traded in thirtyseconds. Therefore, the Rule change will not impact any transactions presently effected on the Exchange.

⁴ See Securities Exchange Act Release No. 35537 (March 27, 1995) (File No. SR-Amex-95-02) ("Amex Order").

⁵ Division of Market Regulation, SEC, *Market 2000: An Examination of Current Equity Market Developments* (January 1994), at 18 ("Market 2000 Study").

⁶ ITS is a subsystem of the National Market System approved by the Commission pursuant to Section 11A of the Act, 15 U.S.C. § 78k-1 (1988). It facilitates intermarket trading in exchange-listed equity securities based on the current quotation information emanating from the linked markets. For a discussion of ITS, see Market 2000 Study, *supra* note 2, at App. II. Participants of ITS include the Amex, Boston Stock Exchange, CBOE, Chicago Stock Exchange, Cincinnati Stock Exchange, New York Stock Exchange, Pacific Stock Exchange, Philadelphia Stock Exchange, and the National Association of Securities Dealers.

¹ 15 U.S.C. 78s(b)(1) (1988).

² 17 CFR 240.19b-4 (1994).